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FURTHER CORRESPONDENCE

WITH

THE GOVERNMENT OF CANADA,

AND CORRESPONDENCE WITH THE

GOVERNMENTS OF PRINCE EDWARD ISLAND AND NEWFOUNDLAND,

RESPECTING

THE TREATY OF WASHINGTON.

(In continuation of Paper presented May, 1872.)

Presented to both Houses of Parliament by Command of Her Majesty.
May, 1872.

LONDON:
PRINTED BY WILLIAM CLOWES & SONS, STAMFORD STREET AND CHARING CROSS,
FOR HER MAJESTY'S STATIONERY OFFICE.

1872.

[*C.*—557.] *Price 2d.*

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CORRESPONDENCE

RESPECTING THE

TREATY OF WASHINGTON AND THE NORTH AMERICAN FISHERIES.

CANADA.

DESPATCH FROM THE GOVERNOR-GENERAL.

No. 1.

CANADA.
No. 1.

The LORD LISGAR to The EARL OF KIMBERLEY.

(No. 126.)

Cacouna, July 5, 1871.
(Received 19th July, 1871.)
(Answered, No. 476, 27th July, 1871, page 2.)

MY LORD,

AT the request of the Privy Council of Canada, I have the honour to transmit, herewith, a copy of a joint Address adopted by the "Legislative Council and Assembly "of the Province of New Brunswick on the subject of the proposed concession of fishing "rights to the citizens of the United States under the Treaty of Washington."

June 13.

I have, &c.,
(Signed) LISGAR.

The Earl of Kimberley,
&c. &c. &c.

Enclosure in No. 1.

Enclosure in No. 1.

COPY of a REPORT of a COMMITTEE of the HONOURABLE PRIVY COUNCIL, dated 13th June, 1871.

The Committee of Council have had under consideration a communication from the Lieut.-Governor of New Brunswick, enclosing a joint Address from the Legislative Council and Assembly of that Province on the subject of the proposed concession of fishing rights to the citizens of the United States under the Treaty of Washington, and they respectfully advise that a copy of the same be transmitted by your Excellency to the Right Honourable the Secretary of State for the Colonies, for the information of Her Majesty's Government, as containing the views of the New Brunswick Legislature on that important question.

(Certified) WM. H. LEE,
Clerk, Privy Council, Canada.

To His Excellency the Right Honourable BARON LISGAR, P.C., K.C.B., G.C.M.G., Governor-General of the Dominion of Canada, &c., &c., &c.

The humble Address of the Legislative Council and House of Assembly of the Province of New Brunswick.

May it please your Excellency,—

Having had under consideration certain provisions of the Treaty signed at Washington on the 8th day of May instant by the respective Commissioners of Great Britain and the United States, we most respectfully submit that so far as the same relate to the fisheries, they are not satisfactory to the people of this Province, inasmuch as while they contain no definition of the existing rights and duties of the subjects and citizens of Great Britain and the United States, and postponing all questions growing out of the exercise and enforcements of such rights and duties, they prematurely and without sufficient considerations of Canadian interests moving thereto, substitute for the protection to which the British fisherman is fully entitled by public law, and which the recent enactments of the Parliament of Canada have largely secured, a policy of unlimited and dangerous concession.

The privileges accorded to the subjects of Great Britain by the 19th and 21st Articles of the Treaty are by no means an equivalent for the privileges conferred on the citizens of the United States by the 18th Article: the reciprocal privilege of fishing in certain American waters is barren and delusive, and the

CANADA.

mode of determining and accounting for the excess in value of the privileges accorded by the Government of the United States is erroneous in principle and impracticable in execution, and the considerations of advantage are too remote and uncertain.

We would respectfully submit that any Treaty relating to the free use of the fisheries, and to the navigation of the rivers and canals of Canada, should at the same time make such further provisions for the regulation of commerce and navigation as would render the same reciprocally beneficial and satisfactory; and we therefore hope that the Parliament of Canada will, under existing circumstances, adhere to and carry out the policy of protection of the fishery rights of the Dominion recently adopted, and will refuse its assent to the Articles of the said Treaty relating to the fisheries.

We respectfully urge upon your Excellency in Council the consideration of the matters herein set forth, and request that your Excellency will be pleased to cause this Address to be laid before the Dominion Parliament at its next session.

(Signed) JOHN S. SAUNDERS,
President of the Legislative Council.
(Signed) E. A. VAIL,
Speaker, House of Assembly.

DESPATCHES FROM THE SECRETARY OF STATE.

No. 1.

No. 1.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 476.)

MY LORD, Downing Street, July 27, 1871.

* Page 1.

I HAVE to acknowledge your Lordship's Despatch, No. 126,* of 5th inst., forwarding, at the request of the Privy Council of Canada, a copy of a joint Address, adopted by the Legislative Council and Assembly of New Brunswick, on the subject of the proposed concession of fishing rights to the citizens of the United States, under the Treaty of Washington.

I have, &c.,
(Signed) KIMBERLEY.

The Lord Lisgar,
&c. &c. &c.

No. 2.

No. 2.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 503.)

MY LORD, Downing Street, September 3, 1871.

Governor, No. 55, July 14, 1871, Newfoundland, page 3.
Governor, No. 59, July 25 1871, Prince Edward Island, page 9.
Sec. of State, No. 38, Sept. 3, 1871, Newfoundland, page 4.
Sec. of State, No. 32, Sept. 3, 1871, Prince Edward Island, page 12.

I HAVE the honour to transmit to your Lordship, for your information, copies of Despatches, dated the 14th and 25th of July, which I have received from the Governor of Newfoundland, and from the Lieutenant-Governor of Prince Edward Island, apprising me that their Governments have acceded to the wishes of Her Majesty's Government that United States' fishermen should be admitted during the present season to the provisional use of the privileges granted to them by the Treaty of Washington so far as concerns those Islands, together with copies of the answers which I have returned to those Despatches.

I have, &c.,
(Signed) KIMBERLEY.

The Lord Lisgar,
&c. &c. &c.

No. 3.

No. 3.

The EARL OF KIMBERLEY to The LORD LISGAR.

(No. 504.)

MY LORD, Downing Street, September 5, 1871.

† Supra.

Foreign Office, August 31, vide p. 8, (Newfoundland Correspondence.)

WITH reference to my Despatch of the 3rd inst.,† forwarding copies of a correspondence between the Governor of Newfoundland and the Lieutenant-Governor of Prince Edward Island and myself relating to the Treaty of Washington and to the Fisheries, I have the honour to transmit to you, for your information, a copy of a letter from the Foreign Office on certain points raised in that correspondence.

I have communicated a copy of the Foreign Office letter to the Governor of Newfoundland and to the Lieutenant-Governor of Prince Edward Island.

I have, &c.,
(Signed) KIMBERLEY.

The Lord Lisgar,
&c. &c. &c.

NEWFOUNDLAND.

DESPATCH FROM THE GOVERNOR.

No. 1.

Governor HILL, C.B., to The EARL OF KIMBERLEY.

(No. 55.)

Government House, Newfoundland, July 14, 1871.
(Received August 8, 1871.)
(Answered, No. 38, September 3, 1871, page 4.)

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 28,* of the 17th June, enclosing copies of the Treaty signed at Washington on the 8th May by the Joint High Commissioners, which has been ratified by Her Majesty and by the President of the United States; of the instructions to Her Majesty's High Commissioners, and Protocols of the Conferences held by the Commission; of two notes which have passed between Sir E. Thornton and Mr. Fish; and of a Despatch—of 17th June—which your Lordship has addressed to the Governor-General of Canada stating the views of Her Majesty's Government on these important documents.

* Page 4.

2. I observe in the copy now before me of the Despatch of Mr. Secretary Fish (8th May, 1871) to Sir E. Thornton, an omission which bears very materially upon the peculiar interests of this Colony, respecting the immediate acquiescence of the Government of Newfoundland in the opinions of Her Majesty's Government as regards the prompt admission of American fishermen to the provisional use—as far as this Island is concerned—of the privileges granted to them by the Treaty.

3. Respecting the immediate admission of American fishermen into British waters, Mr. Fish writes:—"As several Articles of the Treaty which has been signed this day "relating to the admission of citizens of the United States to fish within the territorial "waters of Her Britannic Majesty on the coast of Canada, Prince Edward Island, and "Newfoundland, cannot come into full operation until the legislation contemplated in "that instrument shall have taken place," &c. &c. And again, in writing of the restoration to British subjects of certain duties by Congress, Mr. Fish observes:—"That any "duties which may have been collected on and after the first day of July next on fish-"oil and fish (except fish of the inland lakes and of the rivers falling into the same, and "except fish preserved in oil), the produce of the fisheries of the Dominion of Canada "and of Prince Edward Island, shall be returned and refunded to the parties paying "the same, if a similar arrangement is made with respect to the admission into the "British Possessions of fish oil and fish (with the like exception) being the produce of "the fisheries of the United States." The word "Newfoundland," included in the first extract from Mr. Fish's Despatch, is excluded from the latter, and if intentional the omission in question may act detrimentally towards the future acceptance of the terms of Treaty by the Colonial Legislature.

4. My Ministers, however, to whom I have communicated the whole of the important documents respecting the Washington Treaty, are willing to consider this omission as unintentional; and although anxious to obtain information on this point, have resolved to comply at once with the wishes of Her Majesty's Government as regards the admission, during the present season, of citizens of the United States to the provisional use of the privileges granted to them by the Treaty, so far as lies within the jurisdiction of the Government of Newfoundland to bestow.

5. There is another point in reference to the correspondence relative to the Treaty to which my Advisers invite your Lordship's attention. The copy of Sir E. Thornton's reply (9th May, 1871) to Mr. Fish contains, in connection with the repayment of import duties by Congress, the following words:—"The above-mentioned Colonial Governments, "who would be asked to grant the immediate and certain right of fishing within the

NEWFOUNDLAND.

"territorial waters of those Colonies, whilst the return of the import duties on fish "from the 1st July next promised by the United States is prospective and contingent on "the action of Congress." The words "on fish oil"—following the words "that any "duties which may have been collected on and after the first day of July next"—in Mr. Fish's note to Sir E. Thornton are in the reply thereto (from which the above extract is taken) omitted. The Executive Council beg to be advised on this head.

July 7, 1871.

6. I beg to transmit to your Lordship copy of a Minute of Council, signifying assent on the part of the Government of Newfoundland to the request contained in your Lordship's Despatch, No 28, of 17th June, respecting the Treaty of Washington.

I have, &c.,

The Earl of Kimberley, &c. &c. &c.

(Signed) STEPHEN J. HILL.

Enclosure in No. 1.

Enclosure in No. 1.

COPY OF MINUTE OF COUNCIL.

Council Room, July 7, 1871.

In compliance with the request made by Earl Kimberley in his Despatch of 17th June to his Excellency the Governor, it is agreed to accede thereto.

True Copy:
STEPHEN J. HILL.

DESPATCHES FROM THE SECRETARY OF STATE.

No. 1.

No. 1.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 28.)

SIR, Downing Street, June 17, 1871.

I HAVE the honour to enclose, herewith, copies of the Treaty signed at Washington on May 8, by the Joint High Commissioners, which has been ratified by Her Majesty and by the President of the United States;—of the instructions to Her Majesty's High Commissioners, and Protocols of the Conferences held by the Commission;—of two notes which have passed between Sir E. Thornton and Mr. Fish;*—and of a Despatch of even date herewith,† which I have addressed to the Governor-General of Canada, stating the views of Her Majesty's Government on these important documents.

* Vide Command Papers [C. 262], [C. 344], and [C. 346] of 1871.
† Vide Command Paper [C. 539], page 4.

With reference to that part of my Despatch to Lord Lisgar which bears upon the proposed arrangement for the immediate provisional admission of the United States' fishermen to the colonial fisheries, I have to observe, that Her Majesty's Government are aware that under this Treaty, as under the Convention of 1854, Newfoundland is placed in a somewhat different position to that of the other Colonies interested; but they would strongly urge upon the Government of Newfoundland that it is most desirable for the general interests of the Empire that the same course should be pursued as in 1854, and that the application made by the United States' Government should be acceded to by Newfoundland, so that American fishermen may be at once allowed, during the present season, the provisional use of the privileges granted to them by the Treaty.

I have, &c.,

Governor Hill, C.B., &c. &c. &c.

(Signed) KIMBERLEY.

No. 2.

No. 2.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 38.)

SIR, Downing Street, September 3, 1871.

‡ Page 3.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 55,‡ of the 14th of July, communicating to me the consent of your Government to the provisional admission of United States' fishermen during the present season to the privileges granted by the Treaty of Washington, so far as concerns the Colony under your Government.

Her Majesty's Government have learnt with much satisfaction that the Newfoundland Government have so willingly acceded to their wishes in this respect. NEWFOUNDLAND.

I have drawn Lord Granville's attention to the two questions raised in your Despatch on the correspondence which passed on this subject between Sir Edward Thornton and Mr. Fish.

I have, &c.,
(Signed) KIMBERLEY.

Governor H[illegible] C.B.,
&c. &c. &c.

No. 3.

No. 3.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 39.)

SIR, Downing Street, September 5, 1871.

WITH reference to my Despatch, No. 38,* of the 3rd instant, in answer to yours of the 14th of July,† relating to the Treaty of Washington and to the fisheries, I have the honour to transmit to you, for your information and guidance, a copy of a letter from the Foreign Office on the subject of your Despatch, and relating also to a question raised in a Despatch received from the Lieut.-Governor of Prince Edward Island.

* Page 4.
† Page 3.
Foreign Office, Aug. 31, 1871, page 8.

I have, &c.,
(Signed) KIMBERLEY.

Governor Hill, C.B.,
&c. &c. &c.

No. 4.

No. 4.

The EARL OF KIMBERLEY to Governor HILL, C.B.

(No. 47.)

SIR, Downing Street, November 1, 1871.

WITH reference to your Despatch, No. 55,‡ of the 14th of July, and to my reply, No. 38,§ of the 3rd of September, respecting the fishery stipulations of the Treaty of Washington, I have the honour to transmit to you, for your information, a copy of a Despatch received through the Foreign Office, from Her Majesty's Chargé d'Affaires at Washington, respecting the omission of the word "Newfoundland" in Mr. Fish's note of May 8th last, on this subject.

‡ Page 3.
§ Page 4.
Enclosures in Foreign Office Letter of October 26, 1871, page 8.

I have, &c.,
(Signed) KIMBERLEY.

Governor Hill, C.B,
&c. &c. &c.

CORRESPONDENCE BETWEEN THE COLONIAL OFFICE AND THE FOREIGN OFFICE.

No. 1.

No. 1.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR, Foreign Office, May 26, 1871.

I AM directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a Despatch from Sir E. Thornton, enclosing copies of his correspondence with Mr. Fish relative to the immediate application of the stipulations of the Fishery Treaty pending its ratification.

No. 155.

I am, &c.,
(Signed) E. HAMMOND.

The Under Secretary of State,
Colonial Office.

Enclosures in No. 1.

Enclosures in No. 1.

(No. 155.)

MY LORD, Washington, May 12, 1871.

With reference to my Despatches, Nos. 146 and 147 of the 8th instant, I have the honour to enclose copy of a note addressed to me by Mr. Fish, expressing the hope entertained by the Government of the United States that Her Majesty's Government will urge the Governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, to consent that American fishermen should be allowed to fish in the waters of the above Colonies during the coming season.

Your Lordship will observe that at the beginning of the second paragraph of the draft of the note which

NEWFOUNDLAND.

I forwarded in my Despatch, No. 146, the following words have been added:—"The Government of the "United States would be prepared at the same time to admit British subjects to the right of fishing in "the waters of the United States specified in the Treaty; but . . . . ."

I also enclose copy of my answer to Mr. Fish, and hope your Lordship will find that his note, with the addition above mentioned, and my answer, are in accordance with the terms of your Lordship's telegram of 9th inst., transmitted through Earl de Grey.

His Lordship has seen both the enclosed notes, and approves of their contents.

I have, &c.,
(Signed) EDWARD THORNTON.

The Earl Granville, K.G.,
&c. &c. &c.

SIR, Department of State, Washington, May 8, 1871.

As several Articles of the Treaty which has been signed this day, relating to the admission of citizens of the United States to fish within the territorial waters of Her Britannic Majesty on the coasts of Canada, Prince Edward Island, and Newfoundland, cannot come into full operation until the legislation contemplated in that instrument shall have taken place, and as it seems to be in accordance with the interests of both Governments, in furtherance of the objects and spirit of the Treaty, that the citizens of the United States should have the enjoyment of that liberty during the present season, I am directed by the President to express to you his hope that Her Majesty's Government will be prepared, in the event of the ratification of the Treaty, to make on their own behalf, and to urge the Governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, to make, for the season referred to, within their respective jurisdictions, such relaxations and regulations as it may respectively be in their power to adopt, with a view to the admission of American fishermen to the liberty which it is proposed to secure to them by the Treaty. The Government of the United States would be prepared at the same time to admit British subjects to the right of fishing in the waters of the United States, specified in the Treaty; but as the admission into the United States free of duty of any articles which are by law subject to duty cannot be allowed without the sanction of Congress, the President will, in case the above suggestion meets with the views of the British Government, recommend and urge upon Congress at their next session, that any duties which may have been collected on and after the 1st day of July next, on fish-oil and fish (except fish of the inland lakes and of the rivers falling into the same, and except fish preserved in oil), the produce of the fisheries of the Dominion of Canada and of Prince Edward Island, shall be returned and refunded to the parties paying the same, if a similar arrangement is made with respect to the admission into the British possessions of fish-oil and fish (with the like exception), being the produce of the fisheries of the United States.

I have, &c.,
(Signed) HAMILTON FISH.

Sir E. Thornton, K.C.B.,
&c. &c. &c.

SIR, Washington May 9, 1871.

I have the honour to acknowledge the receipt of your note of yesterday's date, and to inform you in reply that I have been authorized by Earl Granville to state that in the event of the ratification of the Treaty signed yesterday, Her Majesty's Government will be prepared to recommend to the Governments of the Dominion of Canada, of Prince Edward Island, and of Newfoundland, that the provisional arrangement proposed in your note above mentioned, with regard to the right of fishing by United States' citizens on the coasts of those British possessions and by British subjects in the waters of the United States described in Article XIX. of the Treaty, shall take effect during the coming season, on the understanding that the ultimate decision of this question must rest with the above-mentioned Colonial Governments, who would be asked to grant the immediate and certain right of fishing within the territorial waters of those Colonies, whilst the return of the import duties on fish from the 1st of July next, promised by the United States, is prospective and contingent on the action of Congress.

I have, &c.,
(Signed) EDWARD THORNTON.

The Hon. Hamilton Fish,
&c. &c. &c.

No. 2.

No. 2.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR, Downing Street, June 23, 1871.

Sec. of State, No. 444, June 17, 1871. Vide Command Paper [C. 539], April, 1872, page 4.

I AM directed by the Earl of Kimberley to transmit to you, for the information of Earl Granville, a copy of a Despatch which his Lordship has addressed to the Governor-General of Canada, conveying to him the views of Her Majesty's Government with respect to some of the provisions of the Treaty recently signed at Washington.

I am, &c.,
(Signed) H. T. HOLLAND.

The Right Hon. E. Hammond,
&c. &c. &c.

NEWFOUNDLAND.

No. 3.

No. 3.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR, Downing Street, August 21, 1871.

WITH reference to the correspondence noted in the margin respecting the Treaty of Washington and the North American fisheries, I am directed by the Earl of Kimberley to transmit to you, to be laid before Earl Granville, copies of the enclosed Despatches received from the Governor of Newfoundland, and the Lieut.-Governor of Prince Edward Island, from which it will be seen that the Governments of these Islands agree to the admission to their respective inshore fisheries of the United States' fishermen during the present season.

I am also to enclose copies of the Despatches from the Secretary of State, to which these communications are replies.

The Despatch from the Governor of Newfoundland raises two questions on the correspondence which passed between Mr. Fish and Sir E. Thornton on the 8th and 9th of May last, copies of which were forwarded to this office in your letter of the 26th of that month.* Lord Kimberley requests that Lord Granville will enable him to give an explanation to the Governor on these points, and he would also be glad if his Lordship would inform him whether there is any objection to the proposal which it appears is to be made by the Government of Prince Edward Island, in the event of the Acts to give effect to the Treaty being passed by the Colonial Legislatures, for the appointment of a Representative from that Island to give information to the Commission which is to meet at Halifax under the 21st and 22nd Articles of the Treaty.

I am, &c.,

The Right Hon. E. Hammond, (Signed) ROBERT G. W. HERBERT.
&c. &c. &c.

F. O. to C. O., May 26, 1871, page 5.
C. O. to F. O., June 23, 1871, page 6.
Newfoundland, No. 55, July 14, 1871, page 3.
Prince Edward Island, No. 59, July 25, 1871, page 9.
Secretary of State to Governor, Newfoundland, No. 28, June 17, 1871, page 4.
Sec. of State to Lt.-Gov. of Prince Edward Island, No. 22, June 17, 1871, page 11.

* Page 5.

No. 4.

No. 4.

The COLONIAL OFFICE to the FOREIGN OFFICE.

SIR, Downing Street, August 21, 1871.

WITH reference to my letter of this day's date,† forwarding copies of Despatches from the Governor of Newfoundland and the Lieut.-Governor of Prince Edward Island respecting the Treaty of Washington and the North American fisheries, I am directed by the Earl of Kimberley to enclose copies of Despatches which, with Earl Granville's concurrence, his Lordship proposes to forward to the Governors of those Islands by the mail of Friday next.

I am, &c.,

The Right Hon. E. Hammond, (Signed) ROBERT G. W. HERBERT.
&c. &c. &c.

† Supra.
No. 38, Sept. 3, page 4.
No. 32, Sept. 3, page 12.

No. 5.

No. 5.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR, Foreign Office, August 31, 1871.

I AM directed by Earl Granville to request that you will state to the Earl of Kimberley that his Lordship concurs in the Despatches to the Governor of Newfoundland and Lieutenant-Governor of Prince Edward Island respecting the admission of American fishermen to the inshore fisheries of those Islands, and of which drafts were enclosed in your letter of the 21st instant.*

I am, &c.,

The Under Secretary of State, (Signed) ODO RUSSELL.
Colonial Office.

* Supra.

NEWFOUNDLAND.

No. 6.

No. 6.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR, Foreign Office, August 31, 1871

* Page 7.

I HAVE laid before Earl Granville your letter of the 21st inst.,* enclosing copies of correspondence with the Governor of Newfoundland and the Lieutenant-Governor of Prince Edward Island respecting the provisional admission of American fishermen to the inshore fisheries of those Islands; and I am in reply to request that you will state to the Earl of Kimberley that Lord Granville has no doubt that the Government of Newfoundland is right in assuming that the omission of the mention of Newfoundland in the passage in Mr. Fish's note to Sir E. Thornton, referred to, was unintentional.

Her Majesty's Chargé d'Affaires at Washington will, however, be instructed to call Mr. Fish's attention to the omission as being understood to be by inadvertence. His Lordship wishes the Government of Newfoundland to be informed that the intention of the two notes was that, pending reciprocal legislation, in return for the immediate provisional admission of American fishermen to the inshore fisheries, drawbacks should be granted on the import duties taken in the United States on the fish-oil and fish which are to be hereafter admitted free for a term of years under the 21st Article of the Treaty.

I am to add that, as regards the desire expressed by the Government of Prince Edward Island that some person should be appointed to attend the Commission at Halifax, it appears to Lord Granville that it would not only be permissible, but highly desirable, that Prince Edward Island and the other Provinces should furnish the fullest information before the Commission as to the value of the inshore fisheries on their coasts.

The 24th Article of the Treaty provides that the Commissioners shall be bound to receive such oral or written testimony as either Government may present, and it will, consequently, be competent for the Government of Prince Edward Island to send to Halifax any person who may be selected as best capable of giving evidence on its behalf.

I am, &c.,
(Signed) ODO RUSSELL.

The Under Secretary of State,
Colonial Office.

No. 7.

No. 7.

The FOREIGN OFFICE to the COLONIAL OFFICE.

SIR, Foreign Office, October 26, 1871.

† Page 7.

No. 69.

WITH reference to your letter of the 21st of August* last, respecting a question raised by the Governor of Newfoundland on the omission of the word "Newfoundland" in Mr. Fish's note of May 8th last, on the subject of the fishery stipulations of the Washington Treaty, I am directed by Earl Granville to transmit to you, for the information of the Earl of Kimberley, a copy of a Despatch from Her Majesty's Chargé d'Affaires at Washington explaining the matter.

I am, &c.,
(Signed) E. HAMMOND.

The Under Secretary of State,
Colonial Office.

Enclosure in No. 7.

Enclosure in No. 7.

(No. 69.)

MY LORD, Washington, October 10, 1871.

With reference to your Lordship's Despatch, No. 32, of the 31st of August, on the subject of the omission of the word "Newfoundland" in Mr. Fish's note of May 8 last on the subject of the fishery stipulations in the Treaty of that date, I have the honour to state that on calling Mr. Bancroft Davis's attention to the circumstance he at once acknowledged the omission, and attributed it to a clerical error, which has now been set right by the note, copy of which is herewith enclosed, but which reached me too late for transmission by the mail of the 3rd inst.

I have, &c.,
(Signed) F. PAKENHAM.

The Earl Granville, K.G.,
&c. &c. &c.

Sub-Enclosure.

NEWFOUNDLAND.

Sub-Enclosure.

SIR, Department of State, Washington, September 30, 1871.

With reference to your note of the 19th inst. relating to the omission of "Newfoundland" from the contemplated contingent proposal for remission of duties which may have been collected on and after the 1st day of July, 1871, on fish-oil and fish the produce of certain British fisheries named in Mr. Fish's note of the 8th of May last, I have the honour to inform you that the omission was inadvertent.

In stating this fact, now that the fishing season has passed, I must add that no engagement "in presenti" can be assumed.

I have, &c.,
(Signed) J. C. B. DAVIS,
Acting Secretary.

The Hon. F. Pakenham,
&c. &c. &c.

PRINCE EDWARD ISLAND.

PRINCE EDWARD ISLAND.

DESPATCHES FROM THE LIEUT.-GOVERNOR.

No. 1.

No. 1.

Lieut.-Governor ROBINSON to The EARL OF KIMBERLEY.

(No. 55.) Government House, July 12, 1871.
(Received July 26, 1871.)
(Answered, No. 27, August 8, 1871, page 12.)

MY LORD,

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 22,* of the 17th of June, enclosing a copy of the Treaty of Washington and other documents relative thereto. * Page 11.

2. I have had several conversations with the leader of my Government upon the important question of admitting American fishermen to the privileges of our inshore fisheries provisionally and pending the consideration of the Treaty by the Legislature, and it affords me the greatest satisfaction to inform your Lordship that my Advisers seem disposed to meet the views of Her Majesty's Government in the matter, and to order the Colonial officers not to enforce the fishing laws against American fishermen during the present season. The question has not yet been formally considered in Council, but Mr. Pope informed me this morning that he thought his colleagues, with whom he had discussed it, would be prepared to concede the point which I urged upon him in the name of Her Majesty's Government.

3. I anticipate that the necessary instructions will be issued at the next meeting of the Executive Council, and that I shall be in a position to address your Lordship in detail, and with certainty, upon the subject by the mail of this day fortnight. Meanwhile I am sure that your Lordship will be gratified at the probability of the Government of Prince Edward Island responding promptly and loyally to the wish of Her Majesty's Government, as conveyed to me in your Lordship's Despatch under acknowledgment.

I have, &c.,
(Signed) WILLIAM ROBINSON,
Lieut.-Governor.

The Earl of Kimberley,
&c. &c. &c.

No. 2.

No. 2.

Lieut.-Governor ROBINSON to The EARL OF KIMBERLEY.

(No. 59.) Government House, July 25, 1871.
(Received, August 8, 1871.)
(Answered, No. 32, September 3, 1871, page 12.)

MY LORD,

IN continuation of my Despatch, No. 55,* of the 12th inst., I have now the honour to forward a Minute prepared by my Advisers, in which they record the result of their deliberations on the subject of the Treaty of Washington and the other important documents which were forwarded to me with your Lordship's Despatch, No. 22,† of the 17th June last. * Supra. July 17, 1871. † Page 11.

2. It is stated in the Minute that "the different Governments and Legislatures of this

PRINCE EDWARD ISLAND.

"Colony have always hoped that these fisheries" (the fisheries of Prince Edward Island) "would have done much to secure the advantages of another Reciprocity Treaty, or of "some tariff concessions authorizing the free admission" (into the United States) "of the "products of our agriculturists, who form the majority of our population, and which "would have resulted in promoting the prosperity of the Colony;" and that in the opinion of the Council the inhabitants of Prince Edward Island are now asked "to "surrender to the citizens of the United States these invaluable fisheries without "receiving, in return, any just or fair equivalent such as was hoped to be obtained." In deference, however, to the strongly expressed wish of Her Majesty's Government in the matter, the Committee of the Executive Council (without giving any pledge as to the ultimate action of the Legislature) recommend "that the application made by the "United States' Government be acceded to, so that American fishermen may be at once "allowed, during the present season, the provisional use of the privileges granted to them "by the Treaty;" and I have the honour to report that the Custom House officers were yesterday instructed to discontinue the enforcement of the fishery laws for the present season and until further orders.

3. I caused the United States' Consul at this port to be notified accordingly, and I simultaneously dispatched a similar notice to Sir Edward Thornton by telegraph.

4. I may add that in the event of the Acts necessary to give effect to the Treaty being passed by the Legislature of Prince Edward Island, my Government will apply to your Lordship for permission to send a representative to Halifax for the purpose of conferring with the agent of the Imperial Government, whose appointment is provided for in the concluding paragraph of Article 23 of the Treaty, and of urging upon him the claims of this Island to a just share, proportionate to the value of our fisheries, of whatever compensation may be awarded as an equivalent for the privileges which the colonists are asked to surrender. My Government are, of course, aware that Great Britain and the United States are to be represented before the Halifax Commission each by one agent only, but they believe that it would be competent to Her Majesty's Government to authorize the Imperial agent as aforesaid to receive information on the subject of our fisheries from a representative to be appointed by the Government of Prince Edward Island; and this, should the Legislature assent to the Treaty, is what my Government hope that your Lordship will be pleased to accord.

5. I am confident that your Lordship will receive with much satisfaction the intimation contained in this Despatch, and that the prompt and loyal action of the Government of Prince Edward Island will predispose Her Majesty's Government to comply, as far as possible, with any reasonable request which my Advisers may consider it to be their duty to prefer.

I have, &c.,
(Signed) WILLIAM ROBINSON,
Lieut.-Governor.

The Earl of Kimberley,
&c. &c. &c.

Enclosure in No. 2.

Enclosure in No. 2.

Council Chamber, July 17, 1871.

At a meeting of a Committee of the Executive Council of Prince Edward Island—present, The Hon. Mr. Pope, the Hon. Mr. Colonial Secretary, the Hon. Mr. Attorney-General, the Hon. Mr. Owen, the Hon. Mr. Richards:

The Committee of Council having under consideration Despatch, No. 22, dated at Downing Street, the 17th of June, 1871, from the Right Hon. Earl of Kimberley, Her Majesty's Principal Secretary of State for the Colonies, to his Honour Lieutenant-Governor Robinson, together with copies of the Treaty signed at Washington on the eighth day of May, and of protocols of the conferences held by the Commission, of two notes which have passed between Sir Edward Thornton and Mr. Secretary Fish, and of a Despatch addressed to the Governor-General of Canada, stating the views of Her Majesty's Government on these important documents, Her Majesty's Government in the Despatch first referred to strongly urge upon the Government of this Island that, for reasons stated in the Despatch from the Earl of Kimberley to Lord Lisgar, the same course should be pursued as in 1854, and the application made by the United States' Government acceded to by Prince Edward Island, so that American fishermen may be at once allowed, during the present season, the provisional use of the privileges granted to them by the Treaty.

Have respectfully to submit that Prince Edward Island is the most fertile and productive Province in British North America, in proportion to its extent; that the natural market for its principal productions is to be found in the United States, as was very satisfactorily proved during the continuation of the Reciprocity Treaty of 1854; that the fisheries of this Island are the best and most valuable in America, and are much appreciated by the fishermen of the United States; that the different Governments and Legislatures of this Colony have always hoped that these fisheries would have done much to secure the advantages of another Reciprocity Treaty, or of some tariff concessions authorizing the free admission of the products of our agriculturists, who form the majority of our population, and which would have resulted in promoting the prosperity of the Colony. That by the Treaty now under consideration, the inhabitants

PRINCE EDWARD ISLAND.

of this Island are asked to surrender to the citizens of the United States these invaluable fisheries, without receiving in return any just or fair equivalent such as was hoped to be obtained. The Earl of Kimberley, in his Despatch to Lord Lisgar, alludes to "the great importance to Canada of the right to convey goods in "bond through the United States, which has been secured to her by Article 29, and the free navigation "of Lake Michigan under Article 28, and the power of transshipping goods under Article 30, as valuable "privileges which must not be overlooked in framing an estimate of the advantages which Canada will "obtain."

Valuable to Canada as may be these privileges, the Committee submit that they do not at all affect Prince Edward Island. That the chief benefit to this Island would be the admission of fish and fish-oil into the markets of the United States, and this would not be generally felt by the people, inasmuch as this trade is now principally in the hands of a few American citizens. That the surrender by the United States of the right of fishing down to the 39th degree of latitude is comparatively worthless to the people of this Island, and as the United States' Government assert that the privileges accorded to the citizens of the United States under Article 18 of this Treaty are of no greater value than those accorded by Articles 19 and 21 to the subjects of Her Britannic Majesty, the amount of any money compensation that would be given to this Island would be insignificant.

The Earl of Kimberley, in his Despatch to Lord Lisgar, says, "In some respects a direct money payment "is perhaps a more distinct recognition of the rights of the Colonies than a tariff concession, and there does "not seem to be any difference in principle between the admission of American fishermen for a term of "years in consideration of the payment of a sum of money in gross, and their admission under the system "of licences calculated at so many dollars per ton, which was adopted by the Colonial Government for "several years after the termination of the Reciprocity Treaty. In the latter case it must be observed "the use of the fisheries was granted without any tariff concession whatever on the part of the United "States, even as to the importation of fish."

The Committee submit that a commercial arrangement with the United States in consideration of the use of the fisheries would have been most acceptable, but as the Royal High Commissioners were unable to induce the American Government to change its commercial policy, the people of this Island being extremely loyal, and devotedly attached to British institutions, would be most unwilling to throw any obstacle in the way of an amicable settlement of all causes of difference between Great Britain and the United States, and would, therefore, willingly accept any reasonable money compensation, in addition to the privileges granted, as an equivalent; but under the Treaty nothing of the kind is guaranteed them.

The Committee deem it to be their duty further to state that the system referred to of granting licences to American fishermen for a money consideration was never approved of by the Government of this Island, but merely sanctioned in deference to the strongly expressed wish of the British Government in the matter,—and for the same reason the Committee now recommend that the application made by the United States' Government be acceded to, so that American fishermen may be at once allowed, during the present season, the provisional use of the privileges granted to them by the Treaty, without any pledge, however, on the part of the Government that the Legislature will pass the Acts to give effect to the Treaty, in which they feel that the interests of Prince Edward Island have not been fairly considered.

Adopted in Council, July 24, 1871.

(Certified) WILLIAM C. DES BRISAY,
Assistant Clerk, Executive Council.

DESPATCHES FROM THE SECRETARY OF STATE.

No. 1.

No. 1.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(No. 22.)

SIR, Downing Street, June 17, 1871.

I HAVE the honour to enclose herewith copies of the Treaty signed at Washington on May 8th by the Joint High Commissioners, which has been ratified by Her Majesty and by the President of the United States;—of the instructions to Her Majesty's High Commissioners, and Protocols of the Conferences held by the Commission;* of two notes which have passed between Sir E. Thornton and Mr. Fish,† and of a Despatch of even date herewith,‡ which I have addressed to the Governor-General of Canada, stating the views of Her Majesty's Government on these important documents.

With reference to that part of my Despatch to Lord Lisgar which bears upon the proposed arrangement for the immediate provisional admission of the United States' fishermen to the Colonial fisheries, I have to observe that Her Majesty's Government strongly urge upon the Government of Prince Edward Island that, for the reasons stated in the Despatch, the same course should be pursued as in 1854, and the application made by the United States' Government should be acceded to by Prince Edward Island, so that American fishermen may be at once allowed, during the present season, the provisional use of the privileges granted to them by the Treaty.

I have, &c.,
(Signed) KIMBERLEY.

Lieut.-Governor Robinson,
&c. &c. &c.

* Vide Command Papers [C. 262], [C. 344], and [C. 346] of 1871.

† Page 5.

‡ Vide page 4 of Command Paper [C. 539], April, 1872.

PRINCE EDWARD ISLAND.

No. 2.

No. 2.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(No. 27.)

SIR, Downing Street, August 8, 1871.

* Page 9.
† Page 11.

I HAVE received your Despatch, No. 55,* of 12th ult., acknowledging mine of the 17th June,† in which I forwarded to you a copy of the Treaty of Washington.

I have learnt, with much satisfaction, that your Government are likely to accede so promptly and readily to the wishes of Her Majesty's Government, that the United States' fishermen should be admitted provisionally to the inshore fisheries of Prince Edward Island during the present season.

I have, &c.,
(Signed) KIMBERLEY.

Lieut.-Governor Robinson,
&c. &c. &c.

No. 3.

No. 3.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(No. 32.)

SIR, Downing Street, September 3, 1871.

‡ Page 9.

I HAVE the honour to acknowledge the receipt of your Despatch, No. 59,‡ of the 25th of July, communicating to me the consent of your Government to the provisional admission of United States' fishermen during the present season to the privileges granted by the Treaty of Washington so far as concerns the Colony under your government. Her Majesty's Government have learnt with much satisfaction that the Prince Edward Island Government have so willingly acceded to their wishes in this respect. With regard to the observations contained in the Minute of Council which you have forwarded, to the effect that the Prince Edward Island Government would readily accept any reasonable money compensation in addition to the privileges granted as an equivalent, but that under the Treaty nothing of the kind is guaranteed, I do not understand why the Prince Edward Island Government should object to the reference of the question of the money compensation to arbitration, which seems to be the fairest way of determining such a point, more especially as the fact stated in the Minute, that the rights of fishing conceded by the United States are comparatively worthless, is, it must be presumed, capable of distinct proof. I will communicate with Lord Granville as to the wish of your Government, in the event of the Act necessary to give effect to the Treaty being passed, to appoint a representative to give information to the Commission which is to meet at Halifax.

I have, &c.,
(Signed) KIMBERLEY.

Lieut.-Governor Robinson,
&c. &c. &c.

No. 4.

No. 4.

The EARL OF KIMBERLEY to Lieut.-Governor ROBINSON.

(No. 34.)

SIR, Downing Street, September 5, 1871.

§ Supra.
‖ Page 9.

WITH reference to my Despatch, No. 32,§ of the 3rd inst., in answer to yours of the 25th July,‖ relating to the Treaty of Washington and to the fisheries, I have the honour to transmit to you, for your information and guidance, a copy of a letter from the Foreign Office on the subject of your Despatch, and relating also to questions raised in a Despatch received from the Governor of Newfoundland.

Foreign Office Aug. 31, 1871, (Newfoundland correspondence), page 8.

I have, &c.,
(Signed) KIMBERLEY.

Lieut.-Governor Robinson,
&c. &c. &c.

LONDON:
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FOR HER MAJESTY'S STATIONERY OFFICE.

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